THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.13274 of 1999

Date:22.08.2007

Between:

N.Lokamma.

..... PETITIONER

AND

The Commissioner of Gudur Municipality.

..... RESPONDENT

ORDER:

The petitioner was lessee in respect of an old shop owned by Gudur Municipality at Old Bus Stand, for a period of 25 years. The shop and some other structures at that place were demolished and a new shopping complex was constructed under a scheme. While the leases in respect of all other shops were granted by conducting auction, the petitioner and three other existing lessees were allotted shops by drawl of lots. Shop No.19 came to be allotted to the petitioner through proceedings, dated 12.02.1998.

One Sri M.Srinivasulu Reddy filed a writ petition challenging the allotment of shop No.19 in favour of the petitioner. He continued in that shop as lessee up to March, 1999, on the strength of the interim orders. The writ petition, however, was dismissed. The respondent issued fresh proceedings, dated 04.03.1999, allotting shop No.19 to the petitioner, for a period of three years from 04.03.1999 to 03.03.2002. The rent was fixed at

Rs.9,000/- per month on the basis of the amount that was fetched in the auction conducted for other shops.

Within one month thereafter, the respondent issued a notice, dated 09.04.1999, requiring the petitioner to make a deposit of Rs.27,000/- representing the rent for three months and a sum of Rs.63,000/- towards the rent for seven months from October, 1998 to April, 1999. The petitioner challenges the action of the respondent in demanding the said amounts. It is contended that the fixation of Rs.9,000/- per month as rent is excessive and without basis and that the demand of rent for seven months from October, 1998 to April, 1999 is illegal.

The respondent filed a counter-affidavit narrating the facts up to the stage of the petitioner being inducted into possession of the shop. It is stated that the rent was fixed on the basis of the amount that was fetched in the auction. The manner, in which the rent was arrived at, is also indicated.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent.

On account of being a former lessee, the petitioner was allotted a shop in the newly constructed complex by drawl of lots. The initial period of lease was from 01.12.1998 to 31.11.2001. However, the petitioner could not take possession of the shop on account of an interim order granted by this Court in a writ petition filed by one Sri M.Srinivasulu Reddy. The writ petition was dismissed on 10.02.1999. Thereafter, the respondent issued

proceedings, dated 04.03.1999, granting lease of three years to the petitioner from that date till 03.03.2002. The monthly rent was stipulated at Rs.9,000/-.

Though the learned counsel for the petitioner submits that there is no basis for fixation of such an exorbitant rent, on a consideration of the material on record, this Court is convinced that it was fixed on the basis of the rents being paid by the shops that were leased by conducting auction. No exception can be taken to the demand made by the respondent for depositing Rs.27,000/- representing the rent for three months.

The respondent issued a notice, dated 09.04.1999, requiring the petitioner to pay a sum of Rs.63,000/- representing the rent for seven months from October 1998 to April, 1999. Admittedly, during this period, the petitioner was not the lessee for the shop. It was Sri M.Srinivasulu Reddy, who continued in possession on the strength of the interim orders passed by this Court. Therefore, there was absolutely no basis for making such demand.

Therefore, the writ petition is partly allowed setting aside the demand made against the petitioner for payment of rent for seven months from October,1998 to April, 1999. There shall be no order as to costs.

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22.08.2007

kdl